



# Federal Emergency Management Agency

A Bulletin About the National Flood Insurance Reform Act of 1994

March 1996

## National Mitigation Conference: Mitigation Partners Assemble to Learn the Latest on National Flood Insurance Reform Act Implementation

The first National Mitigation Conference hosted by FEMA, was held on December 6-8, 1995. The Arlington, Virginia location drew an all hazards crowd representing all levels of government, private interests and not for profit groups.

The session dedicated to the National Flood Insurance Reform Act (NFIRA) drew a standing room only crowd. Presenters from FEMA included Mike Robinson of the Mitigation Directorate and Gary Oran of the Federal Insurance Administration, co-chairs of FEMA's NFIRA Task Force. Additional members of the Task Force presented information on all of the initiatives underway.

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## The National Flood Insurance Reform Act of 1994 — A Summary

(This Summary originally appeared in the May 1995 Bulletin)

An important milestone for the National Flood Insurance Program was reached when President Clinton signed into law the Community Development and Regulatory Improvement Act of 1994 on Sep. 23, 1994. Title V, the National Flood Insurance Reform Act of 1994, marks the first major change in the Program in more than 20 years.

The new law reflects the concern of the Congress and the Administration that greater emphasis needs to be placed on the NFIP. The law provides tools to increase the effectiveness of the NFIP in achieving its goals of reducing the risk of flood damage to properties and reducing Federal expenditures for uninsured properties at risk that are damaged by a flood. A list of the provisions within each subtitle is listed on the last page of this Bulletin.

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The Act affects every part of the National Flood Insurance Program (NFIP) from insurance to mapping to floodplain management. The stated purpose of the Act is to improve the financial condition of the NFIP and reduce the Federal expenditures for Federal disaster assistance to flood damaged properties. This will be accomplished through:

*Increased lender compliance, which will help increase the number of flood insurance policies that are placed and maintained, therefore protecting more people throughout the country and reducing the need for Federal disaster*

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*(Partners Assemble, from first page)*

A synopsis of the information presented in the session was contained in a special conference edition of the NFIRA Bulletin. Many involved with the implementation of the NFIRA were pleased to see that the audience was generally familiar with the provisions of the NFIRA. This allowed FEMA the opportunity to bring them up to date on the status of implementation and take questions and comments from those in attendance.

As an all hazards conference, this provided one of the first opportunities for individuals representing different hazards to assemble and learn from one another. The NFIRA presentation represented a good opportunity for conference participants to view the detailed attention involved in refining the nation's most comprehensive hazard mitigation program, the National Flood Insurance Program. ◇

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*(Summary, from first page)*  
*assistance.*

***Mitigation assistance grants***, which will provide assistance for states and communities to protect homes and businesses before a flood damages or destroys them, rather than after a flood has already caused damage.

***Mitigation insurance***, which will give people the additional financial resources to rebuild their repetitively flooded or substantially damaged homes and businesses in compliance

*with local floodplain management ordinances, therefore reducing the cost and amount of future flood damage.*

The National Flood Insurance Reform Act of 1994 provides lenders with tools to enforce mandatory purchase requirements for flood insurance coverage created under the Flood Disaster Protection Act of 1973. Subtitle B contains most of the provisions that directly affect the lending and regulatory industries.

The Community Rating System (CRS), in place since 1990, was codified under Subtitle C. CRS is a voluntary incentive program that provides flood insurance premium reductions to communities that undertake activities beyond those required by the NFIP.

Mitigating flood risks through grants and insurance coverage is the focus of Subtitle D. Two task forces, one dealing with flood insurance and the other focusing on natural and beneficial functions of floodplains, are created under Subtitle E. Subtitle F contains 14 miscellaneous provisions that deal with insurance, mapping, erosion hazards, and disaster assistance. ◇

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### ***Want Your Own Copy?***

To get a copy of the National Flood Insurance Reform Act of 1994, Public Law 103-325, write to:

United States House of Representatives  
Document Room  
Washington, D.C. 20515

You may also call (202) 225-3456 or fax (202) 226-4362. ◇

## Automated FAX Lines Distribute National Flood Insurance Reform Act Documents

FEMA's Office of Emergency Information and Public Affairs has installed an automated FAX distribution system which allows individuals to request FAXes through a push button phone. Dial (202) 646-FEMA and follow the voice prompt. The following documents pertaining to the NFIRA are available:

<u>Doc. Number *</u>	<u>Document Name</u>
16002 or <b>23100</b>	FEMA Proposed Rule on Standard Flood Hazard Determination Form (SFHDF)
16003 or <b>23101</b>	Federal Regulators' Final Ruling on Use of SFHDF
16004 or <b>23102</b>	FEMA's Review of Determinations for Required Purchase of Flood Insurance, Final Rule (12/5/95).
16005 or <b>23103</b>	Camera Ready Copy of SFHDF with Instructions

16006 or <b>23104</b>	SFHDF, FEMA's Final Rule
16007 or <b>23105</b>	Mortgage Portfolio Protection Program (MPPP) Notice, 60 FR 44881 (8/29/95)
<b>23106</b>	NFIP Policy Issuance 8-95, 30-Day Waiting Period
<b>23107</b>	How to Request a Lender Flood Hazard Determination Review

Additional information on FEMA and its programs is available through the system by dialing in and following the voice prompt. An index of all documents for FIA may be obtained on Doc. Number 23000 and for Mitigation on Doc. Number 20000.

\*Although the 16000 Series is currently active, document numbers for access to all NFIRA documents will be in the 23100 Series (listed above). The 16000 Series will be phased out of the FEMA FAX System by April 1, 1996.

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### *Note to Readers*

This bulletin is designed to keep you informed of the Federal Emergency Management Agency's progress in implementing the National Flood Insurance Reform Act of 1994. This March edition is the second edition (first update) printed. If you have any questions about the Act or if you have comments or suggestions, please send them to Bill Lesser in the Mitigation Directorate or Verna Riggs in the Federal Insurance Administration at:

Federal Emergency Management Agency  
500 "C" Street, SW  
Washington, D.C. 20472

You may also fax your questions to us at (202) 646-3445.

## *In Brief*

*“In Brief...” is a summary of the major activities and meetings that have taken place.*

### Completed Actions

The increased flood insurance coverage limits (Section 573) were effective Mar. 1, 1995

The 30-day waiting period (Section 579) before flood insurance policies go into effect was also effective Mar. 1, 1995.

FEMA published a NFIP Policy Issuance 8-95 on the 30-day waiting period and exceptions.

FEMA's final rule establishing the Standard Flood Hazard Determination Form (SFHDF) (Section 528) was published in the Federal Register on July 6, 1995. Mandatory use of the form began January 2, 1996.

On January 2, 1996, FEMA's final rule governing Review of Determinations for Required Purchase of Flood Insurance became effective. This was published in the *Federal Register* on December 5, 1995.

The Federal regulators final rule requiring use of the SFHDF, for Loans in Areas Having Special Flood Hazards, was published in the Federal Register on July 6, 1995.

The Federal regulators' proposed rule, making uniform all regulations and guidelines implementing common statutory or supervisory policies, was published in the Federal Register as Part II, Loans in Areas Having Special Flood Hazards, on October 18, 1995, with a

60-day comment period. FEMA submitted comments on the proposed rule.

The Flood Insurance Interagency Task Force conducted meetings on March 30, July 13, September 22, and December 14, 1995. Six workgroups were formed to accomplish the requirements of Section 561.

The 1995 Community Rating System (CRS) coordinators' manual incorporates new activities and goals related to protecting natural and beneficial functions and coastal erosion hazards.

Two studies were initiated to fulfill requirements of Section 577. “Evaluation of Erosion Hazards” of the National Flood Insurance Reform Act of 1994: On September 25, 1995, a study was initiated to map erosion hazard areas for Suffolk and Monroe Counties, New York; and, on September 28, 1995, a study was initiated to evaluate erosion hazards for Sussex County, Delaware.

A meeting was conducted on December 5, 1995 between members of FEMA, State Coastal Zone Management Agencies, academia, private industry and NOAA to discuss the “Evaluation of Erosion Hazards Study” mandated by Section 577 of the NFIRA.

The National Mitigation Conference with workshops and discussion forums on NFIRA implementation was conducted on December 6-8, 1995. ◇

## Details

*This section is an update of actions taken to implement the provisions of the Act. Some actions listed in the May 1995 edition of the Bulletin have been omitted from this edition.*

### SUBTITLE B

**Subtitle B focuses on lenders and lender compliance.**

#### Expanded Flood Insurance Purchase Requirement (Section 522)

##### SUMMARY

Federal agencies acting as lenders and regulated lending institutions are to require flood insurance when making, increasing, extending, or renewing a loan, and maintain the coverage for the term of the loan as a condition for applicable loans, improved real estate or mobile homes which are located in a Special Flood Hazard Area, or collateral. The Act also requires Government Sponsored Enterprises (GSEs) that purchase loans in the secondary mortgage market to implement procedures to ensure that applicable loans are covered by flood insurance and that the coverage is maintained for the term of the loan.

##### ACTIONS

FIA met individually with 6 major Federal regulatory agencies, 2 Federal lending agencies, and GSEs to obtain their input about lender actions to comply with the mandatory purchase requirements. These meetings were completed in January 1995.

FEMA intends to submit a report of lapsed flood insurance policies, with the mortgagees identified, to the Federal regulatory agencies and GSEs. A workgroup consisting of private insurers, NFIP contractor and FEMA is working out details on how to provide this information.

The Federal Financial Institutions Examination Council (FFIEC) established a subcommittee to work solely on flood insurance lender compliance issues. Proposed regulations were printed in the Federal Register on October 18, 1995, allowing a 60 day comment period closing on December 18, 1995.

The regulators, through the FFIEC, are targeting to publish the final rule at the end of May, with an effective date of July.

#### Escrow of Flood Insurance Payments (Section 523)

##### SUMMARY

Effective September 23, 1995, Federally-regulated lenders, their servicers, and Federal agency lenders are required to escrow for flood insurance on loans secured by improved residential real estate or mobile homes if escrows for taxes, insurance, and/or other reasons are already required.

##### ACTIONS

Although the statutory requirement to escrow was intended to be effective on September 23, 1995, because the regulators' Final Rules have not been issued, escrowing is not required until Final Rule is published in the *Federal Register*. However, FEMA recommends lenders to begin escrowing as soon as possible. Lenders who escrow will comply 100% with the statutory requirement that lenders must maintain flood insurance during the term of the loan.

FEMA and Write Your Own companies are including notices to lenders with the flood insurance policy renewal notice to alert them to the escrow requirement.

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Through the Flood Insurance Interagency Task Force, FEMA, the FFIEC, GSEs, and other Federal agencies, are studying present examination procedures and will make recommendations in their report.

#### Placement of Flood Insurance by Lenders (Section 524)

##### SUMMARY

**Force Placement:** Lenders are required to notify borrowers if their building or mobile home is in a Special Flood Hazard Area and requires flood insurance. If the borrower has not purchased flood insurance after 45 days of the notification, the lender has the statutory authority to purchase flood insurance on behalf of the borrower. FEMA recommends the lender use the Mortgage Portfolio Protection Program (MPPP) when force placing.

**FEMA's Review of Determination:** Within 45 days after the lender's notification that flood insurance is required because a building is in a Special Flood Hazard Area, a borrower and lender may appeal to FEMA. Please note, the borrower and lender must jointly request FEMA's review of the determination. The request must be supported by technical information used when making the determination related to the building or mobile home.

##### ACTIONS

The final rule for FEMA's Review of Determinations for Required Purchase of Flood Insurance was published in the *Federal Register* on Dec. 5, 1995, with an effective date of January 2, 1996. The period for comments on the proposed rule ended on August 14, 1995.

#### Penalties for Failure to Require Flood Insurance or Notify (Section 525)

##### SUMMARY

Civil penalties may be imposed on Federally-regulated lenders and GSEs for housing that have a pattern of non-compliance with flood insurance requirements, notifica-

tion, escrow, and placement and maintenance of flood insurance. The penalties are \$350 for each offense, up to a maximum of \$100,000 in any given year. The penalties will be deposited in the National Flood Mitigation Fund, established by the Act, and will be used to support the Mitigation Assistance Program established under Section 553.

##### ACTIONS

FEMA is coordinating with regulators about the enforcement of the penalties, the procedures of depositing monies collected into the National Flood Mitigation Fund (NFMF), and the reporting requirements. The NFMF was established and the accounting code was provided to the regulators to ensure penalty monies are deposited directly into the fund.

#### Notice Requirements (Section 527)

##### SUMMARY

Federally-regulated lenders and Federal agency lenders are required to notify, in writing, the purchaser or lessor that a property is in a Special Flood Hazard Area in advance of signing of the purchase agreement or lease. Lenders must inform FEMA or its designee of the change of servicer of a loan made in a Special Flood Hazard Area within 60 days after the effective date of the change. FEMA is to notify the policyholder and the servicer of the loan 45 days before the renewal date of the policy.

##### ACTIONS

FIA is coordinating with regulators to determine appropriate procedures for banking institutions to report to the Director of FEMA, or designee, a change in servicer. **In the interim, a change of servicer or the selling or transfer of a loan must be reported to the agent or insurance carrier that wrote the flood insurance policy. The lending institution that initiates the above changes is responsible for reporting this information within 60 days.**

FIA issued a directive to Write Your Own insurance companies and the NFIP Servicing Contractor to issue a renewal notice to the policyholder and the servicer of the loan.

#### Standard Flood Hazard Determination Form (Section 528)

##### SUMMARY

FEMA is to coordinate with the Federal regulators to develop a Standard Flood Hazard Determination Form to record if a building or mobile home is located in an identified Special Flood Hazard Area and if flood insurance is available. The intent of the form is to identify buildings located in a Special Flood Hazard Area and ascertain the availability of flood insurance. The form will assist Federal entities for lending regulation in ensuring compliance with the mandatory flood insurance purchase requirements. Please note, the SFHDF does not replace the lender's written notification to the borrower about disaster assistance.

##### ACTIONS

FEMA issued a final rule, which was published in the *Federal Register* on July 6, 1995 regarding development of Standard Flood Hazard Determination Form. Federal regulators also issued their final rule, mandating use of the form by the lenders, effective January 2, 1996.

#### Examinations Regarding Compliance by Lenders (Section 529)

##### SUMMARY

Federal banking agencies and the National Credit Union Administration must assess lender compliance with flood insurance requirements during scheduled inspections and must report their findings to Congress one year after the date of enactment and biennially thereafter for the next four years. Section 529 also amends the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 to require the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development to

determine whether the member enterprises have established adequate procedures to comply with the requirements of the Act based upon these aforementioned reports to Congress.

##### ACTIONS

FIA met in December 1994 with regulators and the National Credit Union Administration to establish ways to measure compliance as required by law.

Some agreement was reached at a January 26 and 27, 1995 workshop. FEMA will determine whether it is required to report to Congress about compliance with the Act. If required, FIA will make formal written requests of the regulatory agencies for needed data and the agencies will comply with FIA's requests.

FIA participated in the Annual Examiners Conference of the Farm Credit Administration on September 19-20, 1995, to discuss the Act and the NFIP. There were 250 examiners in attendance at the conference.

FEMA plans to conduct training sessions for regulators and their examiners.

#### **SUBTITLE C**

#### Community Rating System (Section 541)

##### SUMMARY

NFIRA codifies the Community Rating System (CRS), establishes objectives for CRS, and directs that credits may be given to communities that implement measures to protect natural and beneficial floodplain functions and manage the erosion hazard. FEMA must report to Congress within two years.

The CRS is an incentive program whereby communities that exceed the minimum requirements of the NFIP secure reductions in the flood insurance premiums for their residents. As of Oct. 1, 1995, more than 800 communi-

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ties were participating in CRS. The policies in the CRS communities represent 62 percent of all NFIP flood insurance policies currently in place.

#### ACTIONS

A comprehensive nationwide CRS evaluation is currently underway. It involves written surveys provided to local officials, phone interviews, case studies, and input from State floodplain management agencies. Data will be reviewed in 1996 with a report to Congress scheduled for September 1996, two years after passage of the NFIRA. At the date of this Bulletin, surveys have been mailed to local officials of CRS participating communities.

#### SUBTITLE D

##### Repeal of Flooded Property Purchase and Loan Program (Section 551)

#### SUMMARY

Section 1362 of the National Flood Insurance Act of 1968, Property Purchase Program (the acquisition of substantially or repetitively flood-damaged structures) is repealed. The Mitigation Assistance Program, Section 553, replaces Section 1362 Flood Damaged Property Purchase Program.

#### ACTIONS

All applications approved prior to the repeal date are being closed out.

##### Termination of Erosion-Threatened Structures Program (Section 552)

#### SUMMARY

The Upton-Jones program, which under the Standard Flood Insurance Policy, provided relocation or demolition benefits for properties in imminent danger of collapse from erosion, was terminated with a 1-year transition phase from Sept. 23, 1994 to Sept. 23, 1995.

The Mitigation Assistance Program, Section 552, replaces the Upton-Jones acquisition/

demolition program for buildings threatened by erosion.

#### ACTIONS

All applications approved prior to the repeal date are being closed out.

##### Mitigation Assistance Program (Section 553)

#### SUMMARY

FEMA is to provide grants to states and communities based on a 75 percent/25 percent cost share for mitigation plans and projects. Eligible project activities include: acquisition and relocation; elevation; floodproofing; demolition; small structural works that do not duplicate other agencies' programs (e.g. no major levees); beach nourishment; and technical assistance. States and communities must have an approved flood mitigation plan before they can be eligible to receive project grants.

#### ACTIONS

FEMA has been receiving input on the Flood Mitigation Assistance Program (FMAP) as progress is made to coordinate the development of the FMAP with a revision of the existing Hazard Mitigation Grant Program. Significant effort has been made to have the two programs compliment one another and maximize mitigation gains.

Draft regulations have been prepared and are currently being circulated for internal FEMA review. The regulations will then be forwarded to the Office of Management and Budget (OMB) for review and comment prior to publication in the Federal Register. The Interim Final regulations are expected to be published by Spring of 1996. Planning and project grants will be awarded later in the year. When the Interim Final regulations for the FMAP are published, they will be effective, although comments will be accepted and considered when the regulations are later finalized.

Contact Karen Helbrecht if you would like a

copy of the Interim Final regulations when they are published:

Federal Emergency Management Agency  
500 C Street, S. W., Room 417  
Washington, D. C. 20472

Additional Coverage for Compliance With  
Land Use and Control Measures (Section 555)

**SUMMARY**

This section provides insurance protection to cover the cost to repair and reconstruct substantially damaged or repetitively flooded structures and comply with floodplain management regulations. This coverage is referred to as mitigation insurance.

**ACTIONS**

FEMA has met with the Association of State Floodplain Managers.

FEMA is presently doing actuarial studies for pricing information.

FEMA is drafting the coverage provisions.

FEMA is exploring other aspects of this coverage such as a cap, which would be the maximum amount of coverage to an individual and the relationship of this to the other coverage limits.

FEMA plans to have mitigation insurance effective April 1, 1997.

**SUBTITLE E**

Flood Insurance Interagency Task Force  
(Section 561)

**SUMMARY**

A 10-member task force was established to perform studies and make recommendations on compliance with the mandatory flood insurance purchase requirements. The task force's findings will be reported to Congress.

**ACTIONS**

Task force meetings, chaired by the Federal Insurance Administrator, were conducted on March 30, July 13, September 22, and December 14, 1995.

Task Force on Natural and Beneficial Functions of the Floodplain (Section 562)

**SUMMARY**

An interagency task force consisting of the Department of Commerce for Oceans and Atmosphere, U.S. Fish and Wildlife Service, the Environmental Protection Agency, U.S. Army Corps of Engineers, and the Federal Emergency Management Agency, is established to study natural and beneficial floodplain functions that reduce flood related losses and to make recommendations.

**ACTIONS**

The task force is scheduled to be convened following the release of the Administration's Action Plan responding to the recommendations and goals in two key national floodplain management reports: *Sharing the Challenge, Floodplain Management into the 21st Century*, the report that resulted from a study of the 1993 Midwest Flood, and, *A Unified National Program for Floodplain Management, 1994*.

**SUBTITLE F**

Extension of the NFIP (Section 571)

**SUMMARY**

The National Flood Insurance Program is extended through Sept. 30, 1996.

**ACTIONS**

No action required.

Maximum Flood Insurance Coverage  
Amounts (Section 573)

**SUMMARY**

The maximum flood insurance coverage amounts available were increased.

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### Increased Flood Insurance Coverage Limits

<u>Building Type</u>	<u>Building Coverage</u>	<u>Contents Coverage</u>
Single Family	\$250,000	\$100,000
2-4 Family	\$250,000	\$100,000
Other Residential	\$250,000	\$100,000
Residential Condo (Individual)	\$250,000	\$100,000
Condo-Master (Bldg only x # units)	\$250,000	\$100,000
Commercial (including small business)	\$500,000	\$500,000

#### ACTIONS

The Final Rule was published in the Federal Register on Jan. 30, 1995, making the increased coverage limits effective Mar. 1, 1995.

### Updating Flood Insurance Maps (Section 575)

#### SUMMARY

FEMA is required to review and assess the need to update and revise Flood Insurance Rate Maps every five years. This section also requires that FEMA provide regular distribution of changes to the maps that are affected by letter, including the publication of a semi-annual compendium of all map revisions.

#### ACTIONS

A FEMA work group will guide the implementation and oversee the administration of the 5-year map review process.

Because the review process is expected to identify additional mapping needs, increased Fiscal Year 1996 funds have been requested.

A subscription service is established to provide for a semi-monthly distribution of copies of all letter changes to Flood Insurance Rate Maps.

There are currently approximately 20 subscribers, and as FEMA continues to improve the services, we expect the number of subscribers to increase. Future plans include offering the subscription service in a digital format.

The second semi-annual compendium of map changes was published on August 31, 1995, for the period of January 1 through June 30, 1995.

In addition to the Compendium and Subscription Service, FEMA provides diskettes with database files containing information about Letters of Map Change upon request.

### Technical Mapping Advisory Council (Section 576)

#### SUMMARY

A Technical Mapping Advisory Council is established to recommend improvements to Flood Insurance Rate Maps.

#### ACTIONS

Letters of appointment were sent to members of the Council. An informal meeting of the Council was held at the 1995 National Mitigation Conference in December.

### Evaluation of Erosion Hazards (Section 577)

#### SUMMARY

Requires that FEMA conduct an economic impact analysis of erosion hazard areas and their impact on the National Flood Insurance Program, its policyholders, and communities prone to erosion. To conduct this study, the Act states that FEMA "may map a statistically valid and representative number of communities with erosion hazard areas throughout the United States, including coastal, Great Lakes, and, if technologically feasible, riverine areas."

The study will be conducted in three phases.

**Phase one** requires FEMA to map coastal erosion hazard areas for 26 coastal and Great lakes counties. **Phase two** requires FEMA to conduct an inventory of structures located in the mapped erosion hazard areas. **Phase three**

requires FEMA to conduct, through a “private independent entity,” an economic impact analysis of mapping erosion hazard areas.

#### ACTIONS

A study is currently being conducted to determine a statistically valid and representative number of coastal communities to be mapped under phase one of the study. State Coastal Zone Management (CZM) Agencies are assisting FEMA in this effort.

FEMA recently initiated a 5-month pilot study of the economic impact of mapping erosion hazard areas for Sussex County, Delaware. The results of the expedited and localized study (which considers all three phases of the analysis) will be used in the development of the Statements of Work for phases two and three of the national study. The Sussex County study is scheduled to be completed by March, 1996.

FEMA intends to contract directly with State CZM agencies to conduct phase one of the study (i.e., mapping erosion hazard areas). FEMA has recently initiated (Fiscal Year 1995) the first erosion mapping studies—two counties in New York and one in Delaware. Nine additional mapping studies (six States) have started or will begin during the second quarter of Fiscal Year 1996. The remainder of the county-wide studies (fourteen) will be initiated during the second and third quarters of Fiscal Year 1996.

FEMA expects to initiate phase two of the study in Fiscal Year 1997 (using a national A&E firm), and phase three in Fiscal Year 1997 (using a congressionally mandated “private independent entity”). These phases will also be conducted in close cooperation with State CZM agencies.

Study of Economic Effects of Charging Actuarial Rates for Pre-FIRM Structures (Section 578)

#### SUMMARY

FEMA is required to study the economic impacts of charging actuarial rates to pre-FIRM structures. The study is to include: the number and type of properties affected; the effects that the increases would have on land values, the economy, and the homeowners; and the amount of premium to be charged.

#### ACTIONS

FIA is in the process of developing a contract for the study.

#### Effective Dates of Policies (Section 579)

##### SUMMARY

The waiting period from the time all obligations have been met (premium payment and completed application) for flood insurance coverage was increased to 30 days. There are two exceptions.

1. An initial purchase of flood insurance in connection with the making, increasing, extending, or renewing of a loan. In this case, there is no waiting period.
2. An initial purchase of flood insurance within one year of a map revision. In this case, the policy would go into effect at 12:01 a.m. the day after the application is made and payment is received.

Another provision of the law calls for a study of the effect of the increased waiting period.

#### ACTIONS

The Final Rule was published in the Federal Register on Jan. 30, 1995 making the increased waiting period effective Mar. 1, 1995.

FEMA submitted a report to Congress on Mar. 28, 1995 about the projected affect of the increased waiting period. FEMA will follow-up with another report to Congress with information based on flood events once the new waiting period has been in effect for 1

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year.

On December 5, 1995, FEMA submitted a NFIP Policy Issuance 8-95, on the 30-Day Waiting Period. The policy issuance provides a clearer interpretation of the 30-Day Waiting Period, delineating the 4 exceptions.

#### Agricultural Structures (Section 580) SUMMARY

This provision gives states or communities the option of either (1) exempting agricultural structures that have been damaged by flooding from floodplain management regulations, or (2) requiring that these structures be wet floodproofed, dry floodproofed, or elevated.

Under the Act, the Director must either deny flood insurance to agricultural structures that are not wet floodproofed or otherwise protected, or charge actuarial rates.

This section also prohibits disaster relief for agricultural structures that have been damaged in communities that exempted all or some of these structures from floodplain management regulations. This section does not apply to new or substantially improved agricultural structures. It only applies to structures damaged after the date of enactment of this Act.

#### ACTIONS

The Mitigation Directorate has initiated a study to determine whether agricultural structures can be wet floodproofed (permanent or contingent measures applied to a structure that prevent or provide resistance to damage that allows flood waters to enter the structure).

The goal of the study is to identify the types of agricultural structures for which wet floodproofing is a technically and economically feasible means of providing flood protection, to define the flooding conditions under which wet floodproofing can be successfully employed; and to develop recommendations regarding specific wet floodproofing techniques and their application to agricultural

structures and their contents.

The research team conducting this study includes engineers with training and professional experience in agricultural, structural, and civil engineering and experts in floodplain management and floodproofing.

Once the study is completed, FEMA will utilize the findings to determine to what extent wet floodproofing can be included in the NFIP Floodplain Management Regulations. Concurrently, FEMA will determine the appropriate flood insurance rates for agricultural structures that can be wet floodproofed under the NFIP. Any proposed changes in the NFIP Regulations will occur through the formal rulemaking process that provides for a public review and comment period.

#### Prohibited Flood Disaster Assistance (Section 582) SUMMARY

Individuals in Special Flood Hazard Areas who received disaster assistance after September 23, 1994 for flood disaster losses to real or personal property must purchase and maintain flood insurance coverage. If flood insurance is not purchased and maintained, future disaster assistance will be denied.

The requirement to maintain flood insurance coverage stays with the structure that received disaster assistance as a result of flood damage. If the structure is sold, the current owner is required to notify the buyer of the house of the need to purchase and maintain flood insurance. If the buyer is not notified, suffers uninsured flood losses, and receives Federal disaster assistance, the seller may be required to repay the government any Federal disaster assistance the buyer received.

#### ACTIONS

An interim final rule for the Individual and Family Grant program was published in the Federal Register on Feb. 7, 1995. The rule requires that recipients of Federal disaster

assistance for buildings in a Special Flood Hazard Area purchase and maintain flood insurance coverage as long as they live in the dwelling. ◇

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## ***Questions and Answers***

*This section addresses questions about the National Flood Insurance Reform Act of 1994. If you have questions you would like addressed here, send them to the address on page 2.*

### **Information on NFIRA and the NFIP**

**Q.** How may a person obtain information on the National Flood Insurance Reform Act (NFIRA) and the National Flood Insurance Program (NFIP)?

**A.** NFIRA documents may be accessed through the FEMA FAX, on a push button phone, by calling (202) 646-FEMA, and following the voice prompt. For general information on the NFIP and Community Status Books, you may call the Telephone Response Center at 1-800-427-4661. The NFIP Community Status Books can also be accessed through Internet, under "What's New?" on the FEMA Home Page. The address is [HTTP://WWW.FEMA.GOV](http://WWW.FEMA.GOV). for people outside of FEMA.

### **Subtitle B, Placement of Flood Insurance by Lenders**

**Q.** When issuing an **equity loan**, what does a lender do if the structure is in a SFHA and the originating lender failed to require flood insurance either at origination or as the result of a map change? Should the equity lender require flood insurance only for the amount of the second mortgage or equity loan? Should the equity lender require flood insurance for the total amount of both the first and second loans? Is this legal? Should the equity lender contact the originator and recommend that flood insurance be obtained?

**A.** We encourage the second lender to contact

the first lender and report that the building is located in a Special Flood Hazard Area (SFHA). At that time, both lenders can request the borrower to purchase one flood insurance policy for the amount required for both mortgages and list both lenders on the policy. By notifying and coordinating with the first lender (possibly in writing), it places the responsibility on the first lender to require the purchase of flood insurance. Coordination between both lenders will protect their interests. Please note that if the second mortgagee decides not to contact the first mortgagee, this jeopardizes the protection of their mutual interest, the building.

On the other hand, if there is a second mortgage and an equity loan with the same lender, the amount of coverage required should be the lesser of the following: the total of the outstanding principal balance of the two loans, the amount of the loan, the value of the building, or the maximum amount of flood insurance available.

**Q.** If the force placed provisions are invoked, does this mean that the equity lender cannot close for 30-75 days while the originating lender force places the insurance?

**A.** If the second lender discovers that the first lender does not have flood insurance, we recommend that the first lender be notified. However, because a flood policy did not exist for that particular building, the second mortgagee could proceed with their loan by requiring flood insurance. At that time, there would not be a waiting period for the second mortgage (since it would be considered the initial purchase of flood insurance).

**Q.** We understand that the first lien holder will receive the proceeds of the flood insurance even if the second lien holder placed the insurance for the equity loan. How, then, does the equity lender protect its interest?

**A.** Anytime a second mortgage is made, it is

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standard practice that the primary lender is always listed first on the policy. When a National Flood Insurance Program flood claim is processed, the check is issued to the policyholder and all lenders listed on the policy. When repairs are made, all lenders must endorse the check to ascertain everyone's interest is protected. This is a standard practice throughout the insurance industry.

Q. What is the policy on allowing a second policy for second mortgages?

A. The NFIP does not allow more than one policy per building. This prevents the maximum statutory policy limits from being exceeded for a particular building. If more than one mortgagee, the policy can be endorsed to increase the amount of flood coverage and list additional lenders. Furthermore, having more than one policy would not be cost effective to the borrower because they would have to pay double charges, i.e. expense constant, Federal policy fee, deductible, etc.

Q. Is flood insurance required when the collateral is personal property only, and is located in a building in a SFHA?

A. No, flood insurance is not required for personal property that is used as collateral, unless the building is part of the collateral. However, we suggest that as a sound business practice to protect the lender's interest, based on their contract with the borrower, the lender has the authority to require flood insurance on all buildings.

Q. Three buildings are used as collateral and are located in a SFHA. The first building is worth \$70k, the second is \$20k, and the third is \$10k. In order to comply with the mandatory flood insurance requirement, what is the minimum amount of flood insurance that must be required by a lender if a loan is made for the amount of \$50,000? Can the lender request flood insurance for only one building? If not, how should the flood insurance coverage be

calculated for each building?

A. The lender would first have to establish the value of the buildings (NFIP does not insure land). The value of the buildings would then be compared to the amount of the loan and to the maximum amount of flood insurance available. In order to comply with the mandatory requirement (minimum), the lender would need to require flood insurance for the lesser of the three.

As long as the three buildings are used as part of the collateral, each building is required to have flood insurance. Regarding the minimum amount of flood insurance required, a total of \$50,000 among the three buildings would be required. Please note that based on the lender's interest and contract, a lender can require more than the minimum amount required by the National Flood Insurance Reform Act.

Q. Are balloon loans exempt from the mandatory flood insurance requirements?

A. No, the NFIRA requires all federal regulated lending institutions to require flood insurance for buildings or mobile homes, and any personal property securing the loan, to have flood insurance if it is located in a SFHA.

Q. Can co-ops get flood insurance?

A. Yes, the National Flood Insurance Program offers flood insurance for co-ops through the General Property Form (GP). The GP is a commercial policy with a maximum amount of building coverage available, \$250,000. **Please note that a co-op cannot be insured under the Residential Condominium Building Association Policy.**

Q. On outstanding loans, can the lender require Replacement Cost Value (RCV) on the building or just the balance of the loan?

A. Based on the contractual agreement between lender and borrower, the lender has the authority to require a greater amount of flood insurance than required by the National Flood

Insurance Reform Act. For mandatory flood insurance purchase requirements, the minimum amount of flood insurance is the lesser of the following: the outstanding principal balance, the value of the building, or the maximum amount available through the National Flood Insurance Program.

Q. If there is a dispute, can the lender still require flood insurance until FEMA's review is complete?

A. Yes, when closing a loan, the lender must have proof that flood insurance was purchased. Therefore, during FEMA's review process, the lender and borrower's assets are protected from flooding. However, if FEMA determines the building is outside of the SFHA, the premium will be refunded to the borrower or lender.

Q. If a borrower has maintained flood insurance, does the lender still need to escrow funds?

A. Yes, for loans made, increased, extended or renewed after September 23, 1995, and have escrowing requirements for taxes, insurance premiums, and any other charges, and are secured by residential improved real estate located in a SFHA.

Q. Where do I send the change of servicer notification?

A. The change of servicer or the selling or transfer of a loan must be reported to the agent or insurance carrier that wrote the flood insurance policy. The lending institution that initiates the changes is responsible for reporting this information within 60 days.

#### Subtitle B, Standard Flood Hazard Determination Forms (SFHDF)

Q. Who has to use the SFHDF?

A. Federally regulated institutions and Federal agency lenders must use the SFHDF when determining whether any improved real estate or a mobile home offered as collateral for a loan is located in a Special Flood Hazard Area. As of January 2, 1996, use of the form is

mandatory. The form can also be used on outstanding loans if a determination is needed due to a FEMA map revision or update, or the lender is aware the building may be located in a SFHA. Loans being sold to the secondary market (Fannie Mae and Freddie Mac) also require use of the SFHDF.

Q. What has to be used?

A. FEMA Form 81-93 must be used. The SFHDF may be reproduced. It is not necessary to obtain original forms from FEMA for use. The SFHDF may be used in a printed, computerized, or electronic manner. Computerized versions of the SFHDF may be developed by form users and the resulting printed copy should resemble the version of the SFHDF printed in the *Federal Register* as closely as possible. Please note, changes cannot be made to the form. An electronic version of the SFHDF is currently being developed, but is not yet available.

Q. When does the SFHDF have to be used?

A. The SFHDF was published by FEMA as a final rule in the Federal Register on July 6, 1995. Mandatory use of the SFHDF began on January 2, 1996. The purpose of the form is to determine whether any building or mobile home, used as collateral for a loan, is located in a Special Flood Hazard Area, and whether flood insurance is available.

Q. Where can the SFHDF be obtained and where can questions about the SFHDF be answered?

A. All requests for a single camera ready copy should be faxed to the FEMA Printing Office at (301) 497-6378. Copies of the *Federal Register* publications are available through the FEMA FAX system (202) 646-3362. (Please see **Automated FAX Lines Distribute National Flood Insurance Reform Act Documents**, in this Bulletin, for complete list of document numbers.) A scanned version of the Form is also available on the internet, through

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FEMA's World Wide Web site. The Web address of the site is: <http://www.fema.gov/fema/stdhdf.html>. Questions regarding the SFHDF should be directed to 1-800-611-6125.

Q. Why does the SFHDF have to be used?

A. Section 528 of the National Flood Insurance Reform Act of 1994, signed into law by President Clinton on September 23, 1994, required that FEMA develop a standard form to be used by Federally regulated lending institutions, Federal agency lenders and GSEs. The law further mandates banking regulators to require its use by federally regulated lenders.

Q. Can the same determination be copied and used for another loan, i.e. increased, extended, or renewed, with the same borrower and the same collateral?

A. The lender has the option to use a previous determination that was prepared on a SFHDF for up to 7 years. However, the lender must also verify that the NFIP map affecting the collateral has not changed. If changed, a new determination must be done.

Q. May a determination made on one particular building be used on another building that is located on the same street or in the same area?

A. No. An individual determination must be done for each building.

Q. Does the SFHDF replace the written requirement to notify the borrower that the building is located in a SFHA and the requirement to also notify them about flood disaster assistance?

A. No, the SFHDF does not replace the written requirement from the lender, nor the borrower's acknowledgment by signing a form of such notification. Lenders must continue using FEMA Form 81-2 (dated June 91), Notice to Borrower, which requires the borrower's signature. Lenders should use the form required by their Federal regulator. A sample form was provided in the Federal

Regulators' proposed rule, on page 53985, published in the *Federal Register* on October 18, 1995.

Q. If a lender's information is stored electronically, is a hard copy of the Standard Flood Hazard Determination Form required to be in each portfolio?

A. This requirement must be established by the Federal lending regulators. FEMA assumes that when a portfolio is sold, it also includes a copy of the SFHDF.

#### Subtitle B, Escrow.

Q. May a lender escrow without the borrower's approval, as opposed to the standard practice of addressing the escrow issue prior to closing?

A. The Federal regulators (i.e. Office of Thrift Supervision, Federal Deposit Insurance Corporation, etc.) are responsible for issuing guidance regarding escrow procedures. Therefore, we assume that these will be addressed in the regulations. You may also want to refer to the Real Estate Settlement Procedures Act (RESPA).

#### Subtitle D, Mitigation Insurance

Q. How much will the mitigation insurance cost?

A. A maximum charge of \$75 will be added to flood insurance premiums. However, the cost may be less than \$10 for some structures. The cost will be based on the structure's risk of incurring damage that would trigger the need for such coverage. For instance, an older building that does not meet NFIP requirements for new construction would have a greater charge than a newer building that has been built in compliance with the NFIP requirements then in effect.

#### Subtitle E, Waiting Period

Q. If someone purchases a house outright, and therefore has no mortgage loan, will that person have a 30-day waiting period if that person goes to buy a flood insurance policy?

A. The exceptions to the 30-day waiting period

only apply where there is a loan, a revision, or an update of a Flood Insurance Rate Map.

Q. Does the 30-day waiting period apply to situations where the borrower refinances an existing mortgage or takes out a second mortgage for property located in a special flood hazard area?

A. The 30-day waiting period for flood insurance coverage does NOT apply to refinancings or second mortgage loans. This is a reinterpretation of earlier policy on this issue and it reflects the intent of Congress to increase participation in the NFIP. The reinterpretation of policy is contained in NFIP Policy Issuance 8-95, signed by Elaine McReynolds, Administrator, on December 5, 1995. A copy of the NFIP Policy Issuance 8-95 can be acquired through **FEMA's Automated FAX Line**, by dialing (202) 646-FEMA, following voice prompt, and requesting document number 23106.

#### Subtitle E, FEMA Disaster Assistance

Q. Will recipients of Individual and Family Grants who are flooded and live in a Special Flood Hazard Area receive financial assistance to purchase the flood insurance policy to comply with the law? If a recipient receives disaster assistance due to a flood disaster after the enactment of the NFIRA, but does not maintain the flood insurance, and experiences another flood disaster, will disaster assistance be granted?

A. Those who qualify for an Individual and Family Grant may be eligible for additional grant money to pay the initial flood insurance premium. If the flood insurance is not maintained, and the recipient experiences another flood disaster, Section 582 of the NFIRA requires the disaster assistance be denied. ◇

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## **Provisions of the National Flood Insurance Reform Act of 1994**

### Subtitle B, Compliance and Increase Participation

- Section 521. Non-waiver of flood purchase requirement for recipients of Federal disaster assistance
- Section 522. Expanded flood insurance purchase requirements
- Section 523. Escrow of flood insurance payments
- Section 524. Placement of flood insurance by lenders
- Section 525. Penalties for failure to require flood insurance or notify
- Section 526. Fees for determining applicability of flood insurance purchase requirements
- Section 527. Notice requirements
- Section 528. Standard hazard determination forms
- Section 529. Examinations regarding compliance
- Section 530. Financial Institutions Examination Council

### Subtitle C, Ratings and Incentives for Community Floodplain Management Programs

- Section 541. Community rating system and incentives for community floodplain management
- Section 542. Funding

### Subtitle D, Mitigation of Flood Risks

- Section 551. Repeal of flooded property purchase and loan program
- Section 552. Termination of erosion-threatened structures program
- Section 553. Mitigation assistance program
- Section 554. Establishment of National Flood Mitigation Fund
- Section 555. Additional coverage for compliance with land use and control measures

### Subtitle E, Task Forces

- Section 561. Flood Insurance Interagency Task Force
- Section 562. Task Force on Natural and Beneficial Functions of the Floodplain

### Subtitle F, Miscellaneous Provisions

- Section 571. Extension of flood insurance program
- Section 572. Limitation on premium increases
- Section 573. Maximum flood insurance coverage amounts
- Section 574. Flood insurance program arrangements with private insurance entities
- Section 575. Updating of flood insurance rate maps
- Section 576. Technical Mapping Advisory Council
- Section 577. Evaluation of erosion hazards
- Section 578. Study of economic effects of charging actuarially based premium rates for Pre-FIRM structures
- Section 579. Effective Dates of Policies
- Section 580. Agricultural structures
- Section 581. Implementation review by Director
- Section 582. Prohibited flood disaster assistance